

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

US DISTRICT COURT
WESTERN DIST ARKANSAS
FILED

MAY 02 2016

DOUGLAS F. YOUNG, Clerk
By
Deputy Clerk

RON DAWKINS, as SPECIAL ADMINISTRATOR
and PERSONAL REPRESENTATIVE of the
ESTATE OF BETTE M. DESPARD, deceased,
NATURAL HEIR AT LAW OF BETTE M. DESPARD,
and on BEHALF OF THE WRONGFUL DEATH
BENEFICIARIES OF BETTE M. DESPARD

PLAINTIFF

vs.

CASE NO. 16-3049

THE EVANGELICAL LUTHERAN GOOD
SAMARITAN SOCIETY, d/b/a GOOD
SAMARITAN SOCIETY – MOUNTAIN HOME, and
JOHN DOES 1-5

DEFENDANTS

NOTICE OF REMOVAL

Comes Separate Defendant The Evangelical Lutheran Good Samaritan Society, d/b/a Good Samaritan Society – Mountain Home, in support of its Notice of Removal of the above-captioned action to the United States District Court for the Western District of Arkansas, Harrison Division, from the Circuit Court of Baxter County, Arkansas, respectfully submits as follows:

1. On April 7, 2016, Separate Defendant was served with a Summons and Complaint in the action captioned *Ron Dawkins, as Special Administrator and Personal Representative of the Estate of Bette M. Despard, deceased, natural heir at law of Bette M. Despard, and on behalf of the wrongful death beneficiaries of Bette M. Despard v. The Evangelical Lutheran Good Samaritan Society, d/b/a Good Samaritan Society-Mountain Home and John Does 1-5*, Circuit Court of Baxter County, Arkansas, Case No. CV 2016-97-3. A copy of all pleadings to date is attached hereto as Exhibit "A." No further proceedings have been had therein.

2. Upon information and belief, and as pleaded in his Complaint, at the time of the commencement of this action, and through the present time, Plaintiff is domiciled in and a citizen of Missouri.

3. The Evangelical Lutheran Good Samaritan Society is a not-for-profit North Dakota corporation, with its principal place of business and domicile in South Dakota.

4. Good Samaritan Society – Mountain Home is a fictitious business name for The Evangelical Lutheran Good Samaritan Society and should be disregarded for purposes of citizenship.

5. For purposes of removal, the citizenship of Defendants sued under fictitious names shall be disregarded. 28 U.S.C. § 1441(a).

6. Removal of this case is proper pursuant to 28 U.S.C. section 1441 in that this Court has original jurisdiction because diversity of citizenship exists among the parties.

7. As indicated by Paragraph 37 of Plaintiff's Complaint, Plaintiff intends to seek damages in excess of the minimum jurisdictional requirements for federal court. Accordingly, Plaintiff's Complaint establishes that the amount in controversy in this action, exclusive of interest and costs, exceeds the sum or value of \$75,000.

8. This action is civil in nature, and this Court has original federal jurisdiction pursuant to 28 U.S.C. § 1332.

9. As an action of a civil nature founded on a claim or right arising under the laws of the United States, this action may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(a).

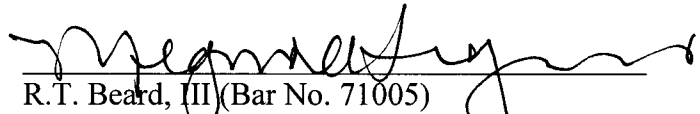
10. This Notice of Removal is being filed within the time period required by 28 U.S.C. § 1446(b).

11. Written notice of the filing of the Notice of Removal will be given to the adverse party as required by law.

12. A true and correct copy of this Notice of Removal will be promptly filed with the Clerk of the Circuit Court of Baxter County, Arkansas, as provided by law.

WHEREFORE, Separate Defendant respectfully removes this action from the Circuit Court of Baxter County, Arkansas, to the United States District Court for the Western District of Arkansas, Harrison Division.

Respectfully submitted,



R.T. Beard, III (Bar No. 71005)

Megan D. Hargraves (Bar No. 2008220)

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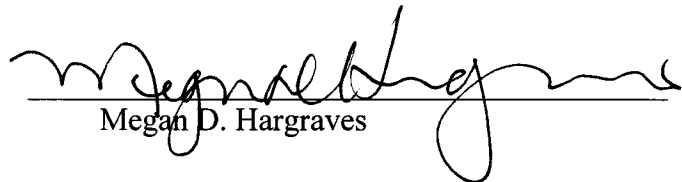
Attorneys for Separate Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2016, I served a copy of this Notice of Removal via first-class U.S. mail, postage prepaid, upon the following:

Jose M. Bautista
Daniel L. Allen
104 West 9th Street, Suite 205
Kansas City, MO 64105

Andrew S. Leroy
4600 Madison Avenue, Suite 711
Kansas City, MO 64112



Megan D. Hargraves